

THE CITY OF NEW YORK
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February 7, 2008

ENDE FRED BRIDGER

BY FAX: (212) 805-7928

Honorable Michael H. Dollinger
 United States District Court
 Southern District of New York
 500 Pearl Street, Room 1950
 New York, NY 10007

The time for the three newly served defendants to respond to the complaint is extended to Feb. 29, 2008. Defendants' counsel is to confirm in writing the service of the Rule 33.2 responses and to provide information about plaintiff's status by the same date.

Re: *Paul Simmons v. Asst. Commissioner Mark Cranston, et al.* 07 CV 3241
 (RJH)(MHD)

Your Honor:

2/8/08

[Signature]

I am the Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department assigned to represent the defendants City of New York, Mark Cranston, Deputy Warden Collins, and Robert Cripps, in the above captioned matter.¹ Defendants write in response to plaintiff's letter of January 15, 2008,² in which he requests a telephonic conference to discuss how to proceed in this matter and raises issues regarding a transfer to a psychiatric facility.

I have confirmed that plaintiff was transferred to the Mid-Hudson Forensic Psychiatric Center, at Box 158, Route 17-M, New Hampton, NY 10958. Plaintiff attempted to call me on February 5, 2008 to inquire about how we were to proceed, but I was unable to reach either him or the contact person he gave me. I contacted Mr. Abraham David a second time today and am awaiting a return call. Therefore, I don't have any information concerning his psychiatric placement.

¹ Defendants Lawrence-Brown, Brown, and Cripps were served on January 8, 2008.

² Although dated January 15, 2008, defendants did not receive the correspondence until January 30, 2008.

Plaintiff raises two primary concerns in this matter – when service is to be completed and how discovery is to proceed. As Defendants Lawrence-Brown, Brown, and Cripps have now been served, there are no outstanding defendants.

However, this office still needs to conduct a brief investigation to ensure that it is able to represent the newly served officers. See General Municipal Law § 50(k); Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985); Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law). The officers must then decide whether they wish to be represented by the Corporation Counsel, see Dunton v. County of Suffolk, 729 F.2d 903 (2d Cir. 1984). Only then can this office interview them for the purposes of responding to the complaint.

Certainly, the process of investigating whether representation will be extended has commenced, but given the time involved in determining the representation of a police officer, and in the interest of judicial economy, defendants respectfully extend the time to answer on behalf of the newly served defendants for 30 days.


Finally, in accordance with Your Honor's order of January 14, 2008, defendants are in the process of preparing local Rule 33.2 Interrogatory responses and cross-referencing those responses with plaintiff's previous interrogatories. Defendants anticipate serving those responses to plaintiff within the week.

In conclusion, defendants do not object to a telephonic status conference to satisfy plaintiff's concerns about this case and to determine whether plaintiff has any impairments, either administrative or psychiatric, that will prevent the efficient resolution of this matter.

Thank you for your consideration in this matter.

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